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ABSTRACT

This booklet presents a set of secondary level classroom strategies for examining American history in light of issues identified by the American Issues Forum. Emphasis is on "certain inalienable rights" of citizens. This topic is covered in four sections: freedom of speech, assembly, and religion; freedom of the press; freedom of search and seizure; and equal protection under the law. Each section in the booklet contains class activities involving reading, role playing, and debate; a selected bibliography of content area materials and films; and an annotated bibliography of general references. Section one presents 17 activities in which students analyze constitutional amendments and court cases dealing with public morality and free exercise of religion. With the nine activities in section two, students compare the meaning of "free press" to individuals and to American society. In one of seven activities in section three, a simulation teaches students about moot courts. Section four contains seven activities including consideration of hypothetical classroom situations reflecting discrimination and segregation. Instructional overviews included at the back of the booklet outline content, key concepts, and suggested themes for each of the four sections. All materials are in field-test condition. (AV)

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MATERIALS FOR USING
AMERICAN ISSUES FORUM
IN THE AMERICAN HISTORY CLASSROOM

TOPIC III: CERTAIN UNALIENABLE RIGHTS

Developed with a grant from
THE NATIONAL ENDOWMENT FOR THE HUMANITIES

SO 009 784

The University of The State of New York
THE STATE EDUCATION DEPARTMENT
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FOREWORD

The modules for *Certain Unalienable Rights* included in this publication have been produced in consonance with the program of the American Issues Forum under a grant from the National Endowment for the Humanities. The classroom strategies are intended to provide suggestions for examining American history in the light of the issues identified by the national committee which proposed the American Issues Forum. In view of the topical nature of the 11th grade social studies program, this can be done without seriously disrupting most teaching programs.

The materials are in fieldtest condition, so that classes and teachers may provide input concerning learning experiences which prove to be most useful. Some assessment of each strategy used by some or all of the students, and suggestions of modifications or substitutions will help the Department produce a final set of strategies which will carry the themes of the American Issues Forum into the future, as we look beyond the Bicentennial Year.

Teachers will find that the teaching strategies relate most closely to understandings concerning civil rights and the individual in Topic I, The American People and Topic IV, American Civilization in Historical Perspective, in the syllabus for Social Studies 11, *American History*.

The Evaluation Form appears on page iv.

Ronald A. Gerlach, Assistant Professor of Education, State University of New York at Buffalo, developed these materials. Donald H. Bragaw, Chief, Bureau of Social Studies Education, is coordinating the project. The manuscript was prepared for publication by Janet M. Gilbert, Associate in Curriculum Development.

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EVALUATION FORM FOR
CERTAIN UNALIENABLE RIGHTS

Please return this form to the Bureau of General Education Curriculum Development, The State Education Department, Albany, New York 12234

1. Classroom strategies used (list by pages)

2. How many students were involved in using this material?

3. Were the reading passages/statistical materials/graphics within the comprehension level of most of the students using them? (list by pages and indicate how satisfactory each was, if a single answer does not apply)

4. Were the suggested questions, and/or the learning strategies interesting and helpful to students in reaching the understandings or developing the desired concepts? (list by pages and indicate how satisfactory each was, if a single answer does not apply)

5. Please suggest substitutions of readings/statistics/graphics which you think would be more appropriate.

6. Please suggest modifications of the learning strategies to make them more effective for more students.

Send descriptions of learning strategies, with references to reading passages, etc., which you have found effective in teaching these same understandings or concepts.

Your signature and school identification is optional; we'd like to give you credit if we use any of your ideas!

TOPIC I

FREEDOM OF SPEECH, ASSEMBLY, AND RELIGION

Introductory Activity (Use of Conflicting Quotations)

"What Is Freedom"

1. "Freedom is often a threat to the social order."

2. "Freedom in a democratic society does not mean license to do as one sees fit."

3. "True freedom is nonexistant. Man's behavior only reflects the society into which he is born and is determined by it."

4. "Freedom is rooted in respect for the individual. Our kind of society cannot flourish without freedom."

5. "The only true freedom comes about when we allow so-called truth and error to clash in the open market place of ideas."

Classroom Discussion Questions

- What is described in each of these statements?
- How does statement 1, 2, etc. describe this subject or idea?
- Which statement do you most like? ...least like? Why?
- Which statements do you feel are realistic? ...unrealistic? Why? (Place all five on continuum)

Most Realistic — Most Unrealistic

- Divide up into groups of five. Prepare a list of all the ways our society and its government try to guarantee and protect the existance of "freedom." Also prepare a list of the obstacles to freedom you see in our society.

Protection of...	Obstacles to...

How do you feel about these listings? How might we go about determining whether or not they are an accurate assessment of life in the United States? Explain.

- Someone once remarked that Americans cherish freedom so highly... are so preoccupied with it...because of their past history? Do you agree or disagree? Why?

What events in your study of American history seem to support or refute this statement? Explain.

- What might we conclude about "freedom" on the basis of this discussion?

Activity 2 (Examination of the Law)

"Congress Shall Make No Law..."

First Amendment, U.S. Constitution

> CONGRESS SHALL MAKE NO LAW RESPECTING AN ESTABLISHMENT OF RELIGION, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Classroom Discussion Questions

- What appears to be the subject of the above law? Where would you find it? To whom does it apply?
- What do you think is meant by the phrase in capital letters?

  Thomas Jefferson once stated that this clause erected "a wall of separation between church and State." What do you think he meant by this?

- Why do you think this clause was included in the first amendment to the U.S. Constitution? How is this clause related to the protection of one's freedom in our society?
- It has been argued that this clause is an outgrowth of the thirteen colonies' religious experiences.

  Form research teams of two or three. Select one of the colonies. Read at least two accounts of life within that colony...text, encyclopedia, etc. Then prepare answers to the following question for class reports:

  - What role did religion play in the colony?
  - Was there religious freedom in the colony you selected to study? If so, how was it protected? If not, why did it not exist?
  - How might this experience have contributed to the development of the establishment clause in the first amendment? Might conditions in the colonies have necessitated its inclusion?

Activity 3 (Use of a Legal Case)

"Ten Verses from the Holy Bible..."

In Pennsylvania there was a law requiring that in public schools, "at least ten verses from the Holy Bible shall be read, without comment, at the opening of each school day."

One family with public school children argued that the practice of Bible reading each morning in their community's schools was contrary to their religious beliefs. They were also concerned

about possible "problems" that could develop if their children were excused to go out in the hallway during the Bible reading.

Consequently, they sought the assistance of the Courts.

Abington School District v. Schempp (1963)

Classroom Discussion Questions

- What happened in this Pennsylvania case? What did the law require? To whom did it apply? Why do you think this was the case?
- Suppose you were an attorney representing the family in this case.
  - What would you ask the Court to do?
  - What would you argue on behalf of the family?
- Suppose you were an attorney for the State of Pennsylvania defending the law in question.
  - What do you think you would argue?
- This case was eventually decided by the U.S. Supreme Court.
  - Why do you suppose this case was considered by the U.S. Supreme Court?
  - How would you have decided this case? Why? (Poll class)

Justice Clark spoke for the majority in an 8 to 1 decision:

> It certainly may be said that the Bible is worthy of study for its literary and historic qualities. Nothing we have said here indicates that such study of the Bible or of religion...may not be effected consistently with the First Amendment. But the exercises here...are religious exercises, required by the States in violation of the command of the First Amendment.

- How did the decision of the Supreme Court compare to that made by the class? Does the Court's decision forbid the use of the Bible in public schools?
- In addition to laws regarding Bible reading, what other kinds of government action in the field of public education might involve questions regarding this clause of the first amendment?

Activity 4 (Conducting a Classroom Poll)

Constitutional or Unconstitutional?...You Decide!!

Described below are a number of different situations in which the government's actions may or may not be in conflict with the "establishment of religion" clause of the 1st Amendment. How would you decide each case?

Situation 1

Government authorities approved and purchased textbooks and lent them free-of charge to all students in grades 7-12, including those attending private and parochial schools.

Constitutional Unconstitutional

Situation 2

The government permitted voluntary participation of public school pupils in the recitation of the Lord's Prayer in the classroom.

Constitutional Unconstitutional

Situation 3

A local law provided that public school pupils could be released during the regular school day to attend a class for religious instruction outside of the public school building.

Constitutional Unconstitutional

Situation 4

The state government reimbursed the parents of children who attend public and parochial schools for their children's transportation expenses when the children used the public bus line to get to and from their schools.

Constitutional Unconstitutional

Situation 5

A town government reimbursed nonpublic elementary and secondary schools for the cost of teacher salaries, textbooks, and instructional materials for teaching and materials applied to specific, nonreligious subjects.

Constitutional Unconstitutional

Situation 6

A state ruling permitted public school pupils to leave their regularly scheduled classes to attend a session of religious instruction given by religious instructors 30 to 45 minutes each week in another room of the public school building.

Constitutional Unconstitutional

Classroom Discussion Questions/Procedures

- Poll class as whole.
- How did you vote on Situation 1, 2, etc.? Why?

- How are the situations related to one another? What do they have in common?...1, 4, 5? ...3, 6?
- Describe actual Court rulings.
  - How was the Court's decisions similar to...different from... those of the class?
  - How did the Court distinguish between what was constitutional and not constitutional in the case or cases involving:
    --Bible reading
    --public aid to parochial schools
    --released time instruction
- Prepare a list of situations in which the government has become involved, but perhaps not "entangled," with religion outside the schools and the field of education (i.e., tax exempt status for churches, pledge, motto on coins, etc.).
- How do you feel about the constitutionality of each of these situations? Why?

Teacher's Notes:

Situation 1: Based on Board of Education v. Allen (1968) in which the Supreme Court held (6-3) that the statute was constitutional.

The majority stated that the law merely made available to all children the benefits of a general program to lend, secular not religious, school books free of charge to pupils who request them.

Ownership of the texts remained at least technically with the state.

Situation 2: Based on Engle v. Vitale (1962) in a 6-1 decision the Court held the action unconstitutional.

The constitutional prohibition against laws respecting an establishment of religion must at least mean that in this country it is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by the government.

Situation 3: Based on Zorach v. Clausen (1952) in which the Supreme Court held (6-3) that this form of released time was constitutional.

No one is forced to go to the religious classroom and no religious exercise or instruction is brought to the classrooms of the public schools... .

Situation 4: Based on Everson v. Board of Education (1947), the Supreme Court held (5-4) that:

The fact that a state law, passed to meet a public need, coincides with the personal desires of the individuals most directly affected is certainly an inadequate reason

for us to say that a legislature has erroneously appraised the public need... .

(The legislation, as applied, does no more than provide a general program to help parents get their children, regardless of their religion, safely and expeditiously to and from accredited schools.)

Situation 5: Based on Lemon v. Kunzman (1973) with the majority noting that the statute fostered "excessive entanglement" between government and religion. It also noted that (1) in terms of potential for involving some aspects of faith or morals in secular subjects, a textbook's content is ascertainable, but a teacher's handling of any subject is not; and (2) the statute provided public aid directly to church-related schools rather than principally to the students and parents (no neutrality).

Situation 6: Based on McCollum v. Board of Education (1948) in which the Court held (8-1) that this use of the public school classrooms for the teaching of religious faith was a violation of the First and Fourteenth Amendments.

"This is beyond all question a utilization of the tax-established and tax-supported public school system to aid religious groups to spread their faith."

Activity 5 (Conducting a Class Debate)

"The Debate Goes On"

Controversy regarding the "proper" interpretation of the "establishment of religion" clause of the First Amendment continues. How do you feel about the present application of this clause to government actions? With which of the following positions would you most likely agree? Why?

Position 1

The "establishment clause" of the First Amendment needs to be interpreted more strictly by the courts.

Position 2

The Court should interpet the "establishment" clause more loosely.

Position 3

The "establishment" clause of the First Amendment should be weakened or abolished through a Constitutional Amendment.

Position 4

The Court should continue its present course of action regarding cases involving the "establishment clause."

Classroom Procedures:

- Class members might be assigned to four teams representing the four positions outlined above.
- A class debate might be organized based on these positions with the remainder of the class voting on the most persuasive presentation.
- A final project might involve having the class attempt to rewrite this clause in the First Amendment in an effort to clarify its meaning as well as to fulfill the purposes they think it was intended to serve.

Activity 6 (Examination of the Law)

"Additional Concern Over Religion"

AMENDMENT I:

CONGRESS SHALL MAKE NO LAW respecting an establishment of religion, or PROHIBITING THE FREE EXERCISE THEREOF... .

Classroom Discussion Questions

- What do you think is meant by the second phrase that is capitalized? How is this different from the clause preceding
- To what kinds of situations do you think it might apply? Explain.
- It has been stated that the "free exercise" of religion is really a special application of "free speech?" Would you agree? Disagree? Why?
- Why do you think the writers of the First Amendment singled it out for special attention?
- Do you think there should be any restrictions placed upon a person's right to exercise his or her beliefs and convictions freely? Why or why not?

Activity 7 (Use of a Legal Case Study)

"The Man with More than One Wife"

George Reynolds had more than one wife. Unfortunately for George, in the territory of Utah where he wed during the 1870's, there existed a Federal statute which prohibited a man from marrying more than one woman...polygamy. All states within our country had similar laws.

George Reynolds, a member of the Morman church and a believer in its doctrines, was convicted of violating the law. Reynolds argued that polygamy was an accepted doctrine of his church - that it was the duty of the male member, circumstances permitting, to practice polygamy. The religious penalty for not practicing polygamy, when circumstances would permit, was damnation in the life to come. Reynolds also noted that he had received the permission of the recognized authorities in the Morman Church and had his second marriage performed according to the doctrines of the Church. He appealed his conviction to the Courts.

Reynolds v. U.S. (1879)

How would you have decided this case? Is this practice within the protection of the "free exercise" clause of the first amendment?

Classroom Discusssion Questions

- What happened to George Reynolds? What had he done? What did he contend?
- What Constitutional question may have been raised in this case?
- How would you have decided this case? Why? (Poll class)

  In considering this question, the Court ruled that polygamy had always been recognized as an offense by the civil courts and that it would not accept the argument that freedom of religion extended to this most important feature of social life.

  The Court held that, although Congress was deprived of all legislative power over mere opinion, it was left free to make laws which prohibited actions which were violations of social duties or were subversive to good order. Also, for the Court to recognize polygamy in this case would place a professed religious doctrine above the law of tne land.

- How does the Court's decision compare with the decision of the class?
- How do you feel about the Court's ruling in this case?
- In what kinds of situations, if any, do you feel the law might limit the "free exercise" of one's religion? What guidelines did the Court appear to lay down in the Reynold's case? Why do you think this was the case? Is this acceptable to you? Why or why not?

Activity 8 (Using Legal Cases)

Should the Government Be Permitted to Interfere?

Situation 1

Two children are charged with an act of insubordination and are expelled from school for refusing, because of their religious beliefs, to participate in a compulsory flag salute.

Situation 2

A merchant, who according to his religion must close his place of business on Saturday, his Sabbath, is also required by state law to close on Sunday with every other merchant.

Situation 3

Two children are witheld from secondary school after completing eighth grade and educated in the home in violation of a state government's compulsory school attendance law because of their family's religious belief that members of the sect should not be exposed to the worldly influences fround in the secondary school.

Situation 4

An unemployed woman refused a job which required she work on Saturday, the day of rest in her religion. She is denied unemployment benefits because of her refusal to work on Saturday.

Situation 5

A court injunction is issued prohibiting a weekly religious service after two of the ministers died from knowingly and willfully taking a poison, strychine, and drinking it during the service attended by over one hundred persons the week before.

How do you feel about the above situations?

Classroom Discussion Questions

- What do the five situations appear to have in common?
- How do you feel about what happened in Situation 1, 2, etc? Why?
- (Compare, where possible, with actual Court decisions.)
- How did the decisions reached by the class compare with those rendered by the Courts?
- On the basis of this exercise, what might we conclude about...the free exercise of religion? ...the government's power to regulate it?

Teacher's Notes:

Situation 1: In Barnette v. West Virginia, the Supreme Court held that the Jehovah Witnesses could not be forced to salute the flag...that their actions did not interfere with or deny the rights of others to do so. Nor was there any question that their behavior was peaceable and orderly.

Situation 2: In Braunfeld v. Brown (1961), the Court ruled (6-3) that the State law did not violate the free exercise of religion for a number of reasons.

The Sunday law regulated a secular activity - a day of rest;

The Sunday law imposed only as "indirect burden" on the exercise of religion, and

Exemption for Jewish merchants would place Sunday observers in a similar situation.

Situation 3: In Wisconsin v. Yoder, the Supreme Court held (6-1) that (1) secondary schooling did oppose the basic religious tenets and practices of the Amish; and (2) by accommodating the Amish beliefs, that is, to allow them to forego one, or perhaps two, additional years of compulsory education would not impair the development of the child nor detract from the welfare of the child, since the children did receive additional training in the home.

Situation 4: In Sherbert v. Verner (1963), the Court (5-2) held that (1) the denial of benefits violated the Seventh-Day Adventist's free exercise of religion and (2) the state's interest in protecting itself from client abuse (the refusal of Saturday work on religious grounds) did not justify its actions.

Situation 5: Lower courts have generally affirmed this action.

Activity 9 (Examining the Law)

"No Law...Abridging the Freedom of Speech"

AMENDMENT 1

CONGRESS SHALL MAKE NO LAW respecting an establishment of religion, or prohibiting the free exercise thereof; or ABRIDGING THE FREEDOM OF SPEECH, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Classroom Discussion Questions

- What does the phrase in capitals mean to you?
- Why do you suppose it was included in the 1st Amendment to the U.S. Constitution?
- What kinds of actions do you think this guarantee might protect?
- What might be some of the advantages...disadvantages to having this freedom in our society?
- Do you feel this guarantee is important to our society? ...to the individual?
- What ways might a government and/or members of a society go about discouraging free and open expression?
- How does the law and our legal system work to prevent this from happening?

Class Projects

- Prepare a bulletin board collage of photographs, drawings, headlines, etc. on the theme "Our Freedom of Speech."
- Write a short poem or essay centering on the advantages or disadvantages of having freedom of speech in American society.
- Draw a picture or cartoon indicating your feelings regarding this right.

Activity 10 (Use of a Court's Decision)

"Is Freedom of Speech Absolute?"

During the 1940's, Congress passed a bill which made it unlawful to advocate or teach the overthrow of the government by force or violence; or to organize or help to organize a group of persons so teaching or advocating; or to conspire to do the same.

Dennis, a leader of the Communist Party in the United States, was arrested along with ten other members of the party for violating the provisions of the Act directed at conspiracy to teach or advocate the overthrow of the government by force or violence. Dennis argued he was denied his rights under the "freedom of speech" provision of the Constitution.

In a 6-2 decision, the Supreme Court found the provisions of the Smith Act under question to be constitutional. . .It held that there were two conditions under which restrictions on free expression would be permitted. First, if the idea which is expressed is an extremely serious threat to society, there is no need to prove it will lead to immediate and dangerous results. Or, secondly, if the idea itself does not pose an extremely dangerous threat to society, there must be a strong likelihood that its expression would result in an immediate dangerous situation.

Dennis v. U.S. (1951)

How do you feel about the Court's decision? Do you feel it was unreasonable? reasonable? Why?

Classroom Discussion Questions

- What law was involved in this case? How did it affect Dennis? Why?
- What did the Court decide regarding the appeal by Dennis? What reasons did it give for its decision?
- How do you feel about the Court's decision? Do you think it was reasonable?
- Prepare a list of situations that might warrant a government agency interfering with a person's "free speech?"

Activity 11 (Use of Descriptive Statement/Episodes)

Absolute Freedom of Speech...Never a Reality!!!

Justice Sanford in a 1925 Supreme Court opinion...the Gitlow v. New York case...stated that a government in the exercise of its police power had the right and duty to regulate and punish those who abused their freedom of speech by making utterances that were inimical to the public welfare, that tended to corrupt public morals, that incited to crime, and that disturbed the public peace.

In determining whether or not a particular abuse existed, the Courts have tended to balance "speech" against "legitimate community values" or concerns...public safety, order, etc. They have also tended to deny the exercise of speech when it posed a "clear and present" danger to our society, government, and people.

How do you feel about this situation? Why?

Classroom Discussion Questions

- Under what circumstances does the Court appear to feel that the free exercise of speech can be legitimately restricted by a government?
  Make a list of the circumstances.
- Do you agree or disagree with the position of the Court? Why? Would you add or delete any circumstances from the list we have developed? Why?
- In which, if any, of the following situations do you feel free speech should be limited?...regulated?...restricted? Why? (What would be the consequences of each action?)
  - Advocating in a speech that the government of the United States should be forcibly overthrown.
  - Calling the President a "fascist pig."
  - Yelling "fire" in a crowded downtown theater.
  - Urging a crowd to burn down the local jail.
  - Making obscene phone calls to a neighbor.
  - Arguing that all American Indians should be placed in concentration camps.
  - Running down the street after midnight yelling and screaming.
  - Criticizing the views of another individual.
  - Knowingly lying to discredit someone.
  - Telling some people that the mayor "ought to be tarred and feathered and run out of town on a rail."
- Devise a set of rules for regulating the exercise of free speech. Include in the rules a description of the kinds of situations you think should be prohibited from happening.

Activity 12 (Use of a Quotation)

Protest is...

Protest is as American as mother's apple pie, two cars in the garage, and television.
(Author unknown)

Classroom Discussion Questions

- What do you think the author of the statement meant? Why?
- What do you think of when you think of the term "protest?"
- How and why do people protest?
- Is "protest" protected by law? If so, how? Is it protected absolutely? If so, how? If not, why?
- What other purposes might a person's use of his free speech serve? What other forms might it take?

Activity 13 (Examining the Law)

"The Right of the People"

Amendment 1

Congress shall make no law...abridging the freedom of speech, of of the RIGHT OF THE PEOPLE PEACEABLY TO ASSEMBLE...

Classroom Discussion Questions

- What does the second phrase that is capitalized mean to you? Who are involved? What may they do?...under what conditions?
- Why might people wish to assemble?...for what purposes? What are some of the advantages/disadvantages of having this guarantee protected in our society?
- Why do you think this clause was included in the 1st amendment? What experiences during colonial times may have caused this clause to be included in the 1st amendment?

Activity 14 (Use of Court Opinion)

In the Streets and Parks?

In a 1939 decision, the United States Supreme Court stated:

> Wherever the title of streets and parks may rest, they have immemorially been held in trust for the use of the public and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions. Such use of the streets and public places has, from ancient times, been a part of the privileges, immunities, rights, and liberties of citizens. The privilege of a citizen of the U. S. to use the streets and parks for communication of views or national questions may be regulated in the interest of all; it is not absolute, but relative; and must be exercised in subordination to the general comfort and convenience, and in consonance with peace and good order; but it must not, in the guise of regulation, be abridged or denied.
>
> <u>Hague v. Committee for Industrial Organization</u>

(The teacher may find it necessary to spend a few minutes with the class in vocabulary identification.)

Classroom Discussion Questions

- How does the Court feel about the use of public parks and streets for assembly?
- When, according to the Court, could the right to assemble be regulated?...be restricted?
- Do you agree or disagree with the Court's views? Why?

Activity 15 (Use of Hypothetical Situation/Role Play)

ORDINANCE X

It shall be unlawful for three or more persons to assemble, except at a public meeting of citizens, on any of the sidewalks, street corners, vacant lots, or mouths of alleys, and there conduct themselves in a manner annoying to persons passing by, or occupants of adjacent buildings. Whoever violated any of the provisions of this section shall be fined not exceeding fifty dollars, or be imprisoned not less than one nor more than thirty days or both...

Suppose you are a citizen in the community whose legislative body is considering whether or not to pass the ordinance you have just read.

- Would you urge your representative to vote in favor of this measure?
- Why or why not?
- Several classroom teams might role play a scene of the council meeting at which this ordinance is being considered.

Classroom Discussion Questions

- How do you feel about this proposed regulation?
- Is the regulation consistent with the Supreme Court's position expressed in its 1939 opinion?
- Suppose someone you knew was arrested, tried, and convicted under this law. Would this individual have any grounds for an appeal? Explain.
- What do you think the attorneys representing the government might argue in defense of ordinance X?
- How would you decide this case? Why?
- Rewrite this ordinance.

Teacher's Note

In case of Coates v. City of Cincinnati, the Supreme Court ruled that the law was excessively vague...could lead to selective enforcement... and thus was an unnecessary infringement upon the right to peaceable assembly.

Activity 16

Using Public Grounds to Assemble

In Florida, some students were arrested. Disturbed and upset, some 200 of their fellow students marched on the county jail to protest.

After complying with a deputy sheriff's request to move back from the jail entrance, the students continued to partially block the jail's driveway...which was used primarily to transport prisoners. The students sang, clapped their hands, and danced about. They also called out to the prisoners inside.

The sheriff informed the students that they were trespassing and ordered them to disperse. Those who did not comply were arrested, tried, and convicted of trespassing. They appealed their conviction on the grounds that their right to assemble had been violated.

In South Carolina, nearly 200 high school and college students marched to the statehouse grounds to protest racial discrimination.

At the statehouse, the students were greeted by officals who told them that they had the right to enter so long as they were peaceful. A crowd of some 300 people, not necessarily supporters of the march, gathered to watch.

After some time had passed, the police ordered the demonstrators to disperse. Those who refused were arrested, tried, and convicted of breach of the peace. They appealed their conviction on the grounds that their right to assemble peaceably was violated.

In the Florida case, the Supreme Court affirmed the trial court's decision; while in the South Carolina case, it overturned the decision. Why do you think this was the case?

22

Classroom Discussion Questions

- What happened in the Florida case? Why?
- How did the situation in the South Carolina case differ?
- Do you agree or disagree with the Court's decision in each case? Why?

Teacher's Note

The first case is based on Adderly v. Florida (1966) in which the Supreme Court stated in a 5-4 ruling that:

Nothing in the Constitution of the United States prevents Florida from an even-handed enforcement of its general trespass statute...the state, no less than a private owner of property, has power to preserve the property under its control for the use to which it is lawfully dedicated...

There is not a shred of evidence in this record that this power was exercised...because the sheriff objected to what was being sung or said... or because he disagreed with the protest. The record reveals that he objected only to their presence on that part of the jail grounds reserved for jail uses. (In this case, the demonstrators had decided to protest at a jail --- which had been built for security purposes and generally is not open to the public. In addition, the demonstrators had partially blocked the driveway used only for jail purposes. They did so without permission from the sheriff.)

The second case is based on Edwards v. South Carolina (1963) in which the Supreme Court held that there was no threat of violence. Police protection was ample. The capitol was an appropriate place to protest for change. The students, said the Court, were convicted upon evidence which showed no more than that the opinions which they were peaceably expressing were sufficiently opposed to the views of the majority of the community to attract a crowd and necessitate police protection. A state does not have the right to make criminal the peaceful expression of unpopular views.

- According to the Court, when may the right to assemble be regulated or limited?

Activity 17 (Use of a Case Study)

Beyond the Law

On Wednesday, April 10, 1963, the officials of Birmingham, Alabama complained to a state circuit court that Walker and 38 other individuals had been engaged in such activities as "sit-in" demonstrations, "kneel-in" demonstrations, mass street parades, trespasses on private property after being warned to leave the premises, unlawfully picketing places of business in the city, and so on. It was argued by these officials that this conduct was calculated to provide breaches of the peace, to threaten the safety, peace and tranquility of the City, and to place an undue burden on the manpower of the police department. As a result, the Court ordered that among other things, there were to be no additional mass street parades or mass processions without a permit as required by a Birmingham ordinance.

Walker and several others were served with copies of the Court order early the next morning. At a press conference several hours later, the men declared their intention to disobey the Court order because it was "raw tyranny under the guise of maintaining law and order."

The government officials asked that Walker be cited in contempt of Court.

Do you feel Walker's actions were a "proper" exercise of his rights under the 1st amendment?

Classroom Discussion Questions

- What did the government officials in Birmingham do? How did Walker and his supporters respond?
- How do you feel about Walker's actions? Are they covered under the protection of the 1st amendment? Why or why not?
- How do you think the Court will rule in this case? Why?

Teacher Note

The Courts held that Walker and friends had had a number of alternate courses of action to deal with the temporary Court order. They had exercised none of these. The only real issue, therefore, before the Court was whether or not they had knowningly violated the Court order. On this question, the Court found against the petitioners and imposed on each of them a sentence of five days in jail and a $50 fine. The Supreme Court, in hearing the appeal, agreed with this decision of the lower court.

. What position did the Court take regarding breaking the law? Do you feel this position is reasonable? Why or why not?

How might the following ideas have helped determine the Court's position?

The petitioners did not even attempt to use alternative courses or action.

No man can be judge in his own case, however exalted his station, however righteous his motives, and irrespective of his race, color, politice, or religion.

No one is constitutionally free to ignore the law and its procedures and carry their battle into the streets.

Respect for the law is a small price to pay and alone can give abiding meaning to constitutional freedom.

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Provides historical background information and descriptive narrative summaries of legal cases related to basic values included in the Bill of Rights such as freedom of expression, freedom of religion, and equal protection of the laws.

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Contains sections of "family relations" (3) and "criminal law" (6 and 7).

TOPIC II

FREEDOM OF THE PRESS

30

Activity 1: (Using an Open Ended Statement)

"When I Think of..."

We all tend to associate various terms with particular objects with which we are acquainted. In the case of a piece of chalk, for example, an individual might think of such terms as "white," "stick," "dusty," "squeaky," "writing," "school," "teacher," and so on.

What do you think of when someone mentions the term "piece of chalk?"

What terms come to mind for completing the following statement

When I think of a "free press," I think of...

Classroom Procedures/Discussion Questions:

- Discuss chalk exercise.
- Record responses of class to "free press."
- Ask class to classify responses into categories of similar terms.
- Ask: What does the exercise reveal about our perceptions of "free press?" How might we go about checking the accuracy of our images?
- Projects:

  - Prepare a collage of headlines, pictures, drawings, cartoons depicting what the press in the United States means to you.
  - Or develop a poem, essay, original drawing, cartoon, etc. on the same theme.

Activity 2: (Using a Quotation)

Does a Free Press Equal a Free Society?

> Our Republic and its press will rise or fall together. An able, disinterested, public-spirited press, with trained intelligence to know the right and courage to do it, can preserve that public virtue without which popular government is a sham and a mockery."
>
> - Joseph Pulitzer
> Editor

Classroom Discussion Questions

- What is the author's position regarding the press in the United States?
- Is he referring to any particular kind of press?
  What do you think he meant by the phrase...
  an "able" press
  a "disinterested" press
- How has the author linked the press to the preservation of our government?
  "without which popular government is a sham"
  - Thomas Jefferson once stated "If it were left to me to decide whether we should have a government without a free press, or a free press without a government, I would prefer the latter."
  What do you think he meant by this?
- What functions or purposes might the press serve in a society? How? Is this important? Why or why not?
- How might a society make sure that their press is permitted to fulfill this function?...and in a responsible manner? Prepare a law or series of laws that might help a society accomplish the above.
- Project
  Develop a list of historical events in which the American press played a significant role. Indicate whether you feel that role had a positive or negative effect upon our society.

Activity 3 (Examining the 1st Amendennt)

Freedom, the 1st Amendment, and Our Press

AMENDMENT I (1791)

CONGRESS SHALL MAKE NO LAW respecting an establishment of religion, or prohibiting the free exercise thereof; or ABRIDING THE FREEDOM of speech, or OF THE PRESS; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievences.

Who is involved in the capitalized portion of the 1st Amendment? How?

32

Classroom Discussion Questions

- Who and what are involved in the clause of the 1st Amendment that is capitalized?
- What forms of communication might the phrase the "press" refer to?

  .newspapers?
  .magazines?
  .books?
  .TV news programs?
  .radio programs?
  .others?...
- The 1st Amendment indicates specifically that "Congress shall make no law." What about state and local forms of govennment? Are they too prohibited from abridging "freedom of the press?" If so, how?
- Why do you think the writers of the 1st Amendment were concerned with a free press? How might it be used to prevent tyranny in government or limit the powers of government? (Why not allow censorship?)
- Whether or not the government should be permitted to regulate the press...literature, the news, art, etc. has long been a concern of the Courts.
  How do you feel about this question?
  Are there any circumstances in which the press might be restricted or regulated?
- It has often been stated that "freedom" implies "responsibility." Prepare a list of responsibilities to which you feel the press in America should adhere.

Activity (Using Visuals)

"Ah. Ha! They're Trying to Control..."

Peanuts cartoon removed by ERIC.

© 1964 United Feature Syndicate, Inc.

Classroom Discussion Questions

- Who is present in the drawing?
- What are they doing? saying?
- What seems to be the theme or central idea in this cartoon? What do you think the cartoonist is trying to tell his audience? Why?
- How do you feel about this position?
- Can you think of any other situations where it might apply? Explain.
- What is government censorship? Does it exist in the United States? Why or why not?

Activity 4 (Using a Poll)

Is Freedom of the Press Absolute?...How Do You Feel?

1. The governennt should be allowed to review and prevent the actual printing and publication of materials where necessary.
   Strongly Agree Somewhat Agree Somewhat Disagree Strongly Disagree

2. The press should have an absolute right to criticize the public actions of government officials even when it is not entirely sure of the truthfulness of its assertions,
   Strongly Agree Somewhat Agree Somewhat Disagree Strongly Disagree

3. Government papers marked "secret" should remain so and should not be published by the news media under any circumstances.
   Strongly Agree Somewhat Agree Somewhat Disagree Strongly Disagree

4. The government should require a newspaper or magazine to print the replies of government officials who have been criticized in that publication.
   strongly Agree Somewhat Agree Somewhat Disagree Strongly Disagree

5. In the course of a trial, a judge has the right to restrict news reporting despite the fact that the public has the right to know what goes on in the courtroom.
   Strongly Agree Somewhat Agree Somewhat Disagree Strongly Disagree

6. Reporters should be forced to reveal the sources of their information if their testimony would help fight crime.
   Strongly Agree Somewhat Agree Somewhat Disagree Strongly Disagree

7. The "freedom of the press" clause of the 1st Amendment should not cover material that is obscene or libelous.
   Strongly Agree Somewhat Agree Somewhat Disagree Strongly Disagree

8. The President of the United States should not allow newspapers to print stories that he thinks are not in the public interest.
   Strongly Agree Somewhat Agree Somewhat Disagree Strongly Disagree

Classroom Procedures/Discussion Questions

- Poll class — record results — discuss individual teams.
- How did you vote? Why?
- Indicate that class views will be compared with views of Courts later.
- Assignment

  Prepare list of situations in which "free press" might well be restricted. Give justification for action.

Situation	Reason(s) for Regulation

Activity 5 (Using a Court Decision)

The Case of the Saturday Press...No Prior Restraint!!!

Under Minnesota law, any person engaged in the business of publishing, malicious, scandalous, and defamatory material is guilty of a "nuisance" and may be prevented from continuing to do so by the Courts.

In the case of the Saturday Press, the local Courts found the paper to be a "nuisance." It forbade the Press from publishing any future editions or circulating past editions containing malicious, scandalous and defamatory matter of the kind found in the articles it had published about the various public figures in Minneapolis several weeks prior to the Court's actions.

The Press appealed this ruling to the Courts.

The Supreme Court held (5-4) that by restraining a paper prior to publication, the lower Court had (1) shifted the burden of proof justifying regulation from the state to the press and (2) provided a potentially dangerous means of limiting or thwarting a "free press." Rather than the State having to take affirmative action to prosecute a paper for possible abuses and prove to a jury that the press had gone beyond the bounds of a "free press," a paper in some cases would be put in a position of having to go to Court and prove to the Court that certain material should be published. This was only a step away from complete censorship.

Prior restraint was unconstitutional regardless of truth except in exceptional cases. Instead of prior restraint, the Court held the publisher could and should be held responsible for the consequences of his publications.

Near v. Minnesota (1931)

Classroom Discussion Questions

- What happened to the Saturday Press? Why?
- What did the Supreme Court rule? Why?
- Suppose the charges against the press were true.
- Were the public figures in Minneapolis left defenseless as a result of the Court's ruling? Explain.
- How do you feel about this decision? Why?
  What two values seem to be in conflict with each other here?

_____ v. _____

Eric Sevareid of the C. B. S. Evening News once stated...

> Nobody in this business expects for a moment that the full truth of anything will be contained in any one account or commentary, but that through free reporting and discussion, as Mr. Walter Lippman put it, the truth will emerge. The central point about the free press is not that it be accurate, though it must try to be that; but that it be free. And that means freedom from any and all attempts by the power of Government to coerce it or intimidate it or police it in any way."

What did he mean? How may such thinking have influenced the ruling regarding "prior censorship?" Do you agree or disagree with this line of reasoning? Why?

Activity 6 (Using the Facts of a Case)

Instead of the Late Movie...the Courtroom

In 1962, a well-known financier, Billie Sol Estes, was tried in a District Court for the offense of swindling.

The initial hearings were carried live by both radio and televsion, and news photography was permitted throughout.

When the case was called for trial, live telecasting was only permitted during a small portion of the trial. Other selective parts of the trial, however, were recorded and broadcast on regularly scheduled newscasts later the same day and evening with commentary and remarks by the host newsman. On one occasion, the initial pretrial hearing was rebroadcast and replaced the "late movie."

Estes v. Texas (1965)

Classroom Discussion Questions

. Can you think of any ways that the news reporting in this case may have affected the following during the trial?

the judge	the jury
the witnesses	Billie Sol Estes himself

How might "the press" have interfered with the defendent's right to a fair trial? What might the press have contended in this regard?

Teacher's Note

In a 5-4 decision, the Supreme Court ruled that "the criminal trial under our Constitution had a clearly defined purpose, to provide a fair and reliable determination of guilt, and no procedure or occurence which seriously threatens to divert it from that purpose can be tolerated." (Douglas) Also, "the purpose of the requirement of a public trial implies only that the court must be open to those who wish to come, sit in available seats, conduct themselves with decorum, and does not give anyone a concomitant right to photograph, record, broadcast, or otherwise transmit the trial proceeding to those members of the public not present." (Harlan)

. List the rights that seem to be involved in this case. What right did the courts place above all others? Why do you think this was so?
. What recommendations would you make regarding how the news media should cover a trial?

Activity 7 (Using Conflicting Quotations)

A Government Secret and the "Times"

In 1971, the New York Times and two other papers secured unauthorized possession of materials that the government had classified as "secret" regarding the war in Vietnam. After several months of study, these newspapers began to publish articles based on the "secret" materials. The U. S. government asked the Court to halt further publication.

The Court ruled in a 6-3 decision that in cases involving censorship of the press prior to publication the government must show that the disclosure would result in direct, immediate and irreparable damage to the country. In this case, the government had not done so. As a result, the press was free to publish these materials.

The reaction to this episode was mixed. Some of the views are presented below.

I.

"The attempt to halt the publication of these 'secret' papers was a bold attack on a basic right - freedom of the press."

II.

"The newspapers that were involved have sought to challenge the institution of government itself by claiming they can make decisions in place of our government."

III.

"Papers that are marked secret should remain so...we live in a nation of law...government secrets are meant to keep our people safe."

IV.

"The press must find out and report all the information it can about important national concerns so that the public can make rational decisions about these matters."

How do you feel about these viewpoints?

Classroom Discussion Questions

- What did the N. Y. Times and other papers do?
  Why do you think they acted in this manner?
- What did the U. S. government do in response?
  How did the Court rule? Why? What reasons did it give? Does it mean the press can publish whatever government secrets it wants?
- How do you feel about Viewpoint I, II, etc?
  Why?
  Rank the view points from 1 "most acceptable" to 4 "least acceptable."
  How did you rank the items? Why?

Activity 8 (Using a Balance Scale)

Disclosing One's Sources of Information

A staff reporter from a daily newspaper in Kentucky published an article in his paper on drug abuse. The story described his observations of two young residents of Jefferson County preparing hashish from marijuana, an activity which, they asserted earned them about $5,000 in three weeks.

Later, the reporter was subpoenaed by the County grand jury investigating drug crimes. He appeared but refused to identify the individuals he had seen possessing marijuana or the persons he had seen making hashish from marijuana.

Branzburg v. Hayes (1972)

On the basis of the case described above, prepare a list of reasons for and against a reporter disclosing his sources of information.

Reasons for Disclosure	Reasons Against Disclosure

Discussion Questions

- Why would the reporter perhaps not wish to disclose his sources? Suppose you were the person he had interviewed...how might it effect your relationship with reporters?
- Why might the government argue in favor of having a reporter disclose his sources?...was this action covered under the first amendment?
- On the basis of the information contained in your balance scale, do you think reporters should be required to reveal their sources of information? If so, under what circumstances? conditions?

Teacher's Note

The Supreme Court held (5-4) that news reporters were obligated to reveal the identity of their sources of information when asked to do so by grand juries investigating crime. It was held that it was better to prosecute crime than to just report it.

The Court also held that if the reporter felt that he was being harrassed and that the investigation was not being conducted in good faith--that the information requested was only remotely related to the purposes of the investigation or was not needed for effective law enforcement, he had ready access to the Courts.

. What other areas of "free press" do you think the government might have cause to impose regulations upon the press?...in the case of obscene literature?...in the case of libelous, slanderous articles?...other situations?

Activity 9 (Using an Open Ended Statement)

When I Think Of

Complete the following statement.

When I think of a free press, I think of

_____ _____

_____ _____

_____ _____

_____ _____

Classroom Procedures/Discussion Questions

. Record responses of class.
. Compare responses with those made during Activity 1:
  How were responses similar? different?
  Why do you think it happened this way?
. What might we conclude about the freedom of the press on the basis of these activities? Explain.

41

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Includes an opinion poll, bibliography, and review of Supreme Court cases in this area; provides a description of the role of the press in "Watergate;" and examines the question regarding whether or not a newspaper writer is entitled to confidentiality of his or her sources.

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Suggests several instructional models...i.e. the case study approach, simulation-role play, value clarification, etc...for teaching about the law in junior and senior high school social studies classrooms as well as provides practical examples and working bibliographies for the teacher in this area of education.

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Contains sections of "family relations" (3) and "criminal law" (6 and 7).

TOPIC III

FREEDOM FROM SEARCH AND SEIZURE

Activity 1 (Visual Analysis Exercise)

In the Privacy of One's Home??

Buffalo Evening News
Saturday, Ap. 3, 1971.
Page B-7.

What appears to be happening in the drawing? Write a caption for it.

Classroom Discussion Questions

- What things...people...are contained in the drawing?
- How are these things...and people...related to each other? What appears to be happening? Why do you think so?
- What caption did you write for the drawing? (Poll class) What seems to be the central theme of the captions? What do you think the purpose was for the drawing?
- What other kinds of situations might reflect this same theme or concern? Can you think of anything from your own life that might involve the same thing?
- What does the word "privacy" mean to you? Do you feel it is necessary? What might be some of the advantages of "privacy?...disadvantages? Do you have as much of it as you would like?
- Is a person's privacy protected by law? If so, how? If not, why do you think this is so?

Activity 2 (Examining the Law)

The Right...To Be Secure...

FOURTH AMENDMENT

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to by seized.

Rewrite the 4th amendment in your own words.

Classroom Discussion Questions

- What is the central idea or thought contained in the 4th amendment to the Constitution?
- From what are the people protected? From whom? Does it involve state and local government practices? If so, how? Does it involve the actions of private individuals?
- What is a search? What might it involve?
- When might a search be necassary?
- When do you think a search would be unreasonable?
- What "checks" does the 4th amendment place upon the use of searches and seizures?

What do you think is meant by a "probable cause?"

What else is needed? What must it contain? Can you think of any situations where this requirement might be waived? How about in situations where:

(1) the individual gives his or her willful consent;
(2) the police are in "hot pursuit" of a criminal;
(3) the police arrest an individual and he tries to dispose of the evidence; and
(4) the material to be seized is in "plain view" of an officer

- Why do you suppose the writers of the Bill of Rights and the 4th amendment were so concerned with "search and seizure" that they devoted an entire amendment to it? What historical experiences may have heightened their concern regarding practices in this area?
- What right or ideal does the 4th amendment appear to be protecting by prohibiting "unreasonable search and seizures?" Do you feel the 4th amendment is useful?...effective? Why or why not?

Activity 3 (Using Series of Episodes)

Suppose You Were the Officer...

Searches Without A Warrant

What would you decide to do in each of the following situations? Why? Do you think the search and/or seizure would be reasonable?

1

You are on foot patrol and pass by Jim Compton's home. While standing on the public sidewalk, you look through Jim's large picture window and observe marijuana lying an a table near the window.

2

An arrest warrant is issued for John Falkin, suspected of committing robbery. You arrest him inside his home. As you are taking John out the front door, you spot what appears to be narcotics on a table near the door.

3

Bill, while walking home late at night, is stopped by you and your partner. You ask him for his I.D. while your partner searches him. He feels a small plastic bag in Bill's pocket. He suspects it may be marijuana.

4

After spending the night at a party, Mary Jo is involved in an accident in the car she is driving. She appears to you to be under the influence of alcohol. She is taken to the hospital. You must decide whether or not to order a blood-alcohol test.

5

Carol, while driving 75 in a 55 miles per hour zone, is stopped and given a traffic ticket for speeding. After giving the ticket, your partner decides that you should search the auto.

6

Al is stopped by you because his auto's left tail light is out. When Al rolls down the window, you smell what seems to be marijuana. Al also has a glassy look in his eyes.

7

You make an arrest for robbery in the living room of a three-room apartment. You sense that the loot is somewhere in the apartment.

8

You arrest a person for possession of narcotics and he tries to swallow them.

9

You suspect Ralph of burglary. When you arrive at his home, you are greeted by Ralph's girl friend. She states that Ralph is out but you can look around if you like.

10

You are chasing a suspected burglar. You see him enter a private home.

Classroom Discussion Questions

- What did you decide to do in situation 1, 2, etc?...Why?
- In what situations did you feel the search was reasonable?... unreasonable? Why?
- Are there any other situations in which you might feel the search would be reasonable? Explain.
- Complete Listing of causes for Reasonable Searches w/o Warrant

Activity 4 (Using a Case Study)

Using the 'Evidence' in Court

On May 23, 1957, the police officers arrived at the home of Dolores. They had a tip that a person was hiding out in her home who was wanted for questioning in connection with a recent bombing, and that there was a large amount of gambling material in the house.

After telephoning her attorney, Dolores refused to admit the officers without a search warrant. After watching the house from the street for some three hours, the police officers approached the house once again. When Dolores did not come to the door immediately, at least one of several doors was forcibly opened. The officers then proceeded to conduct a widespread search of the home. In a small trunk in the basement, they discovered some obscene materials. Dolores was ultimately convicted of the possession of obscene materials that were discovered in her home.

In an appeals case, the attorney representing Dolores contended that the search had not been reasonable and that the material obtained through it should not be admissable in court. The state's attorney argued that even if the search were made without authority, or were otherwise unreasonable, the material that was obtained through the search was important evidence and could be rightfully used in the trial of Dolores.

Based on Mapp v. Ohio (1961)

How would you decide this case? Why?

Classroom Discussion Questions

- What happened to Dolores? Why?
- What reasons might the police have given for the search? Do you think they were acceptable reasons? Why or why not?
- Do you feel that the search and seizure of the materials was "reasonable?..."just?" Why?
- What did the attorneys in the appeals case contend? How do you feel about their respective positions?
- Does the 4th amendment necessarily apply to the actions of officials in the states? How might the Courts have extended this guarantee to the States?
- What questions or concerns did the Court have to decide in the case of Dolores? How would you have decided each of these questions?

  .reasonable v. unreasonable search?
  .application of the 4th to the States?
  .exclusion of the evidence?

The Supreme Court ruled that the search and seizure in the Mapp case was not reasonable. In addition, it declared that the Fourth Amendment's right to freedom from unreasonable search and seisure was enforceable against the states through due process of the Fourteenth Amendment.

Since the exclusionary rule against illegal searches was applied in federal cases, it should also be extended to the states. Thus all evidence obtained by searches and seizures in violation of the Constitution was inadmissible in state courts as well as Federal courts. To hold otherwise would be to grant the right of privacy "but in reality to withhold its privilege and enjoyment."

- How did your decision in the case of Dolores compare with the Court's decision in the Mapp case? Why do you think this might have been the case?
- How do you feel about the Supreme Court's decision in the Mapp case? Why do you think the Court elected to exclude "evidence," that was obtained illegally, from the trial of an individual? What effect, for example, do you think this was intended to have upon law enforcement?

Activity 5 (Moot Court Enactment)

On the Beat

A police detective observed the action of two men downtown at about 2:20 in the afternoon. The officer had been a policeman for some 39 years and had been on patrol downtown, a high crime area, for some 30 years.

According to the officer, the men appeared to be "casing a job, a stickup." They walked past the same store five or six times and then once again with a third man. Considering some kind of direct action necessary, the officer approached the three men, identified himself, and asked for their names. They "mumbled something."

The officer, sensing something was wrong and that the men might pose a threat to his safety, drew his gun, and grabbed one of the men using him as a shield against the other two. He ordered the men into the store and patted down their outer clothing. He found guns in the pockets of two of the men. The two were charged with and convicted of carrying concealed weapons.

One of the men appealed the decision arguing that the search had been illegal and unreasonable

Based on Terry v. Ohio (1968)

Note: A detailed excerpt from this case is available in Teaching About Legal Concepts In the Senior High School, Module V, pp. 52-55.

Classroom Procedures

- Divide the class into four groups:
  1. Team of attorneys for the petitioner...on the basis of the facts of the case and their knowledge of search and seizure, they are to prepare and present arguments contending that the search was unreasonable.
  2. Team of attorneys for the State...on the basis of the facts, they are to prepare and present arguments to the Court contending that the search was reasonable.
  3. Panel of Judge...are to hear the arguments of the attorneys and to decide the case.
  4. Courtroom Observers...are to judge the effectiveness of the players and the realism of the enactment reporting to the class after completion of the moot court.

- Preparation and enactment might be scheduled over one, two, or three class periods. A discussion of the enactment and the actual court decision should follow the presentation.
- In Terry v. Ohio (1968), Mr. Chief Justice Warren for the Court: "We merely hold today that where a police officer observed unusual conduct which leads him reasonably to conclude in light of his experience that criminal activity may be afoot and that the persons with whom he is dealing may be armed and presently dangerous; where in the course of investigating this behavior he identified himself as a policeman and makes reasonable inquires; and where nothing in the initial stages of the encounter serves to dispel his reasonable fear for his own or others' safety, he is entitled for the protection of himself and others in the area to conduct a carefully limited search of the outer clothing of such persons in an attempt to discover weapons which might be used to assault him. Such a search is a reasonable search under the Fourth Amendment, and any weapons seized may properly be introduced in evidence against the person from whom they were taken.
- Discuss how Mapp case is similar to but different from Terry decision. Are they consistent with each other?

Activity 6 (Use of Quotation/Pivotal Questions)

In a Modern Society...New Developments

With the development of the microphone and transistorized recording devices of all kinds, a new problem has developed regarding the "proper" interpretarion of the 4th amendment. Can a search be conducted without a person physically entering another person's home? Is conversation something that can be seized? Does the 4th Amendment cover electronic snooping and surveillance? How do you feel about these questions?

Classroom Discussion Questions

- What are your views regarding the questions posed in the handout?
- Under what circumstances, if any, do you feel the police or other government agencies should be allowed to use electronic eavesdropping?
- Devise set of guidelines or rules for the use of electronic evaesdropping.

Teacher's Note

The Courts...i.e. Berger v. New York (1970) and Congress...Crime Control Act (1968) have held that:

a) there must be clearly established "probable cause" for such an intrusion;
b) such action must be reviewed by and approved of by a magistrate (Attorney general); and
c) the court order must describe the conversation to be "seized" and be in effect only for a "reasonable" time.

Activity 7 (Study Questions)

Outside the Realm of Criminal Law...Some Remaining Questions Regarding the Right to Privacy

- Should you have to allow inspections of your home or apartment by fire and health officials?
- What can you do about private individuals and agencies who might be monitoring your conversations or who are in some other way interfering with your privacy?
- Can't you refuse to be searched at an international border or at the local airport?
- Does another individual or an agency have the right to keep records on you and share the information with others?

In Retrospect

- On the basis of these exercises, how do you feel about the value of "privacy?"
- It has often been stated that only people who have something to hide need privacy. How do you feel about this statement?

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TOPIC IV

EQUAL PROTECTION UNDER THE LAW

Activity 1 (Using Contrived Incidents)

How Would You Feel?

Situation I

Suppose the school board passed a rule stating that all female students should be taught in one school and all male students in another.

Situation II

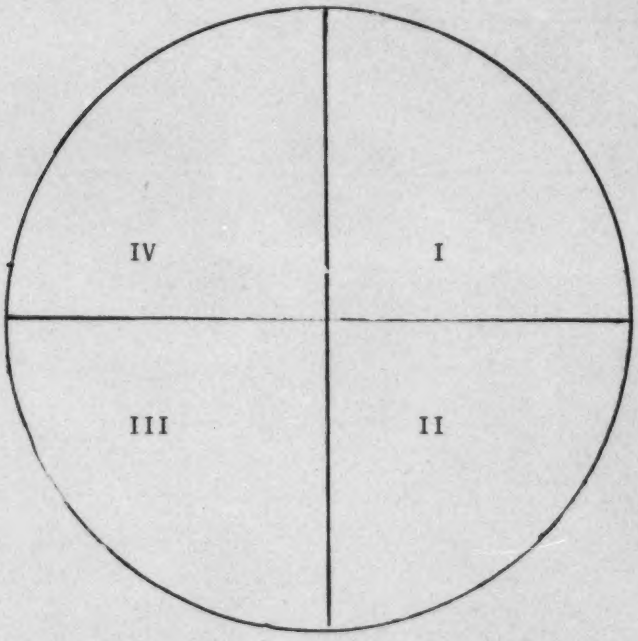
Suppose all teachers were ordered not to teach any student having more than shoulder length hair.

Situation III

Suppose I decided to give twice as much homework to students who had blue eyes and/or who wrote with their right hand.

Classroom Procedures/Discussion Questions

. Have students fill in quadrants of circle in following manner:



Questions

I. Describe your feelings when you first entered class in a few words.
II. Describe your feelings after reading Situation I.
III. Describe your feelings after reading Situation II.
IV. Describe your feelings after reading Situation III.

. How did you feel about each of these situations? Why?
--poll...female, then male students
students with shoulder length hair
blue eyed students
right-handed students
--compare results
. What is happening in each of these situations? Are all students being treated equally?...fairly? Why?
. Prepare a list of forms of discrimination that have been or are now present in American society.
Discuss with the class the following questions:

.Why does or did each form of discrimination exist?
.What effect do you think it has had or continues to have on the individuals who are involved in the situation?... on American society?
.Is it legal?...illegal?
.Is this situation good?...bad?, fair or unfair? Why?
.What changes have come about in each situation? How?
.Are these changes important?
.What needs to be done? How? Why?
.What kinds of discrimination may be promoted by law?

Activity 2 (Examining the Law)

No Person...All Persons...

Amendment 5

No person shall...be deprived of life, liberty, or property, without due process of law.

Amendment 14

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS.

Who is involved in each of the excerpts from Amendment 5 and 14 to the U. S. Constitution? How?

- According to Amendment 5, who is guaranteed what?...under what circumstances?...and is thereby protected from whom?
- Some three-quarters of a century later and after a costly, bitter war, the 14th Amendment was added to the U. S. Constitution. Who is guaranteed what in this amendment?...and is thereby protected from whom?

	5th	14th
who is protected?	_____	_____
What is protected?	_____	_____
under what conditions?	_____	_____
from actions by whom?	_____	_____

- What appears to be the major difference between the excerpts from the 5th and 14th Amendments provided the class?
- How do the 5th and 14th Amendment involve the idea of "equality?"
- Suppose individuals or groups feel they have been mistreated according to the 5th...the 14th Amendment. How might they use these amendments to better their conditions?
- What other amendments to the U. S. Constitution are designed to work toward achieving the ideal of "equality?"
- What kinds of legislation have been passed by Congress in the past 15 to 20 years in this area?
- How do you feel about these amendments and the current legislative measures? Explain.

Activity 3 (Using a Descriptive Narrative)

Equality in Education?

From the Plessy v. Ferguson Supreme Court decision in 1896 until the early 1950's, separation of white and black children in public schools was permitted and in some communities required. According to the Supreme Court's so-called "separate but equal" doctrine, "equal protection" or treatment under the law was provided when the two races were given substantially equal facilities.

In 1954, the Supreme Court (Brown v. Board of Education) reversed itself declaring that in the field of public education the doctrine of "separate but equal" had no place. That is, it ruled that separate educational facilities were inherently unequal although the Negro and white schools involved had been equalized, or were being equalized, with regards to buildings, courses, qualifications and salaries of teachers, and so on.

Classroom Discussion Questions

- How had the Court defined "equal protection" under the law during the late nineteenth and early twentieth century? Whom did it involve? How?
  Do you feel this ruling was fair?...just?...provided for "real equality?" Why or why not?
- Why do you suppose the Supreme Court reversed itself regarding its ruling of "separate but equal" in 1954? (the decision was unanimous)
  To what did the decision specifically pertain?
  How do you feel about this decision compared to the Plessy v. Ferguson (1896) ruling? Why?
- Compare views of class with Supreme Court's reasoning in the 1954 Brown v. Board of Education case.

Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

We come then to the question presented: Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other "tangible" factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does.

To separate school children from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone. The effect of this separation on their educational opportunities was well stated in the Kansas case by a court which nevertheless felt it must rule against the Negro children: "Segregation of white and colored children has a detrimental effect upon the colored children. The policy of separating the races is usually interpreted as denoting the inferiority of the Negro group. A sense of inferiority affects the motivation of a child to learn. Segregation, therefore, has a tendency to retard the educational and mental development of Negro children and to deprive them of some of the benefits they would receive in a racially integrated school system."

-Chief Justice Warren

What did Chief Justice Warren contend was wrong with "separate but equal" facilities?

Do you tend to agree or disagree? Why?

- Public controversy and conflict have developed regarding how the Brown decision should be implemented or applied. How would you go about seeing that every student...whether white or black... received "equal protection under the law" in the field of public education? Explain.
- Text survey...prepare a list of other situations outside of public education where the "separate but equal" doctrine applied. Describe one change in each area...i.e., Court decision, recent legislation, etc...since the Brown decision of 1954. Note what you feel needs yet to be done in each area.

Situations	Change Since '54	Proposals

Activity 4 (Using a Case Study)

It's Only $1.50

In Virginia, the payment of a poll tax was a necessary requirement if you wished to vote in state and local elections. The tax amount to the sum of $1.50 was to be paid by December 4 of each year. Any adult resident of the state regardless of sex, race, or religion was entitled to register, to pay the tax, and to vote.

How do you feel about this requirement for voting?

Classroom Discussion Questions

- What was the prerequisite to voting in Virginia? Did the state regulation cover all elections? Why do you think this was the case?
- What amendments to the Constitution center on the "right to vote?" To what do they pertain?
- How do you personally feel about this requirement? Does it raise any Constitutional questions or issues? Might either the 5th or the 14th or both amendments have been infringed on by this state regulation? Is any kind of discrimination involved in this case? If so, what kind? If not, why not?
- How might the following arguments by the state be countered or proven?
  "It is within the state's power to prescribe vote qualifications!"
  "The poll tax does not violate the equal protection clause of the 14th Amendment."
  "The poll tax is the simplest, most equal, non-discriminating and objective test of minimum intelligence and responsibility for determining the qualifications of the state voters."

Teacher's Note

In Harper v. Virginia (1966), the Supreme Court held that the poll tax as a precondition to voting in state or local elections was unconstitutional. According to the Court, "wealth or fee paying has ...no relationship to voting qualifications."

- How do you feel about this decision? Why?

64

- What kinds of qualifications for voting do you feel a state should be permitted to establish regarding voting?...should not be permitted to establish?
  Prepare a list of guidelines.
- What other actions have the Courts and Congress undertaken in the past two decades to insure an individual's "right to vote"?
  Survey recent textbook accounts and other literature.
  How do you feel about these measures? Why?
  What might we conclude about...voting...equal protection as a result of this activity? Explain.

Activity 5 (Using a Court Opinion)

Toward Liberation of the Woman?

In speaking for the U. S. Supreme Court in a recent case, Justice Brennan declared that:

> Since sex, like race and national origin, is a characteristic determined solely by the accident of birth, classifications based on this trait are clearly suspect and must therefore be subjected to strict judicial scrutiny.

He added that:

> The sex characteristic frequently bears no relation to the ability to perform or to contribute to society. As a result, legal distinctions between the sexes have often caused the entire class of females to inferior legal status without regard to the actual capabilities of its individual members.
>
> Frontier v. Richardson (1973)

Classroom Discussion Questions

- What is the central theme or idea in Brennan's statement? What does his statement indicate to you?
- In what aspects of American society is a person's sex an important distinguishing characteristic? Which to you seem fair? Unfair? Why?
- How would you feel about each of the following proposals?

I.

Women and men should be allowed to complete freely for the same jobs and should perform equal work.

II.

Husbands are under no legal obligation to financially support their wives nor the wives their husbands.

III.

Women and men would share the same rest rooms as well as other public facilities (i.e. bathhouses).

IV.

Woman would be as eligible for the military draft as men.

. Prepare a list of characteristics that seem to best describe males...females

Male	Female

What effect do you think your images of a "man" and a "woman" might have upon your responses to the above four situations?...to Justice Brennan's position?

. Obtain a copy of the Equal Rights Amendment.
  Form two debate teams, one supporting its ratification and one opposing its ratification.
  Conduct a debate and have remainder of class vote on presentations.
  Describe the current satus of the amendment.

  Sept. 1973
  31 States Ratified
  17 States Rejected
  2 Rescinded

Teacher's Note

Review in "introductory remarks" how an amendment is ratified.

. Assignment:

Write an essay either supporting or refuting one of the following three statements...First, describe what the statement means to you. Then, state your own position on the subject with supporting historical evidence.
"The question of equality for women is really old hat!!"
"Women always have been equal!!"
"Women have the best of all worlds!"

Activity 6 (Using Quotations)

New Rights and Powers?

It can hardly be argued that...students shed their Constitutional rights...at the schoolhouse gate.

Tinker v. DeMoines Independent Community School District

The right of citizens of the United States who are eighteen years of age or older to vote shall not be abridged or denied...

Amendment 26
Section 1

Who is the subject of each of these statements?
How do you feel about these changes in the law?

Classroom Discussion Questions

. Who or what is the subject of each of these statements?
. In what aspects of American society is a person's age an important distinguishing characteristic? Which regulations regarding age seem fair to you?...unfair? Why?
. What have young people gained through the Court decision and Amendment described above? Do these new rights and powers imply additional responsibilities for young people? Explain?
. Can you think of any other areas where young people have made additional gains toward being treated more as adults? How do you feel about these developments? Why?

Activity 7 (Independent Study/Class Reports)

Select one group that you feel does not receive equal treatment under the law.

i.e., migrant laborers
the elderly
criminal defendants who are poor
ethnic group
etc.

Your report should center upon the following questions:

- Who are the people in your report? What is their present situation? How do you know?
- What, if anything, has been done to improve their condition over the past several decades? By whom? Has this action been helpful?... promoted more equal treatment under the law?
- What do you feel needs to be done? By whom? How? Why?

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Includes a classroom simulation on student rights under the law.

Constitutional Rights Foundation. "Liberation"...Simulation. 6310 San Vicente Blvd. Los Angeles, Calif. 90048.
Consists of series of activities designed to encourage clarification of one's values or beliefs regarding women's rights, minority rights, and student rights.

Cuban, Larry (ed). *Youth as a Minority: An Anatomy of Student Rights.* Washington, D. C.: National Council for the Social Studies, 1972.

Kanowitz, Leo. *Women and the Law.* Albuquerque, N. M.: University of Mexico, 1969.
Surveys the legal status of women in America.

Law in a Free Society. *On Justice: A Casebook* and *On Justice: Lesson Plans.* Santa Monica, Calif.: 1972.
Includes an analysis of issues concerning the "fair distribution of benefits and burdens" in the fields of education and employment among others.

Oliver, D. W. and Newman, F. M. *Race and Education.* Middletown, Conn.: American Education Publications, 1969. 64 pp.
Examines the issue of school segregration throughout history from reconstruction and the 1896 Plessy Case to the experiment in New York City regarding community control of education during the sixties.

National Council for the Social Studies. *Judgment Series.* Washington, D. C.
Includes a case study pamphlet on the poll tax.

Ratcliffe, R. H. (ed.). Chapter 4: "Slavery, Citizenship, and the Vote" and Chapter 5: "Equal Opportunity" in *Vital Issues of the Constitution.* Boston: Houghton Mifflin, 1971. pp. 71-102. Biblio...Instructor's Guide.
Presents key legal cases and decisions in the area of "equal protection under the law" examining such historical issues as the status of slavery-Dred Scott (1857) and the detention of Japanese-Americans-Korematsu (1944) as well as contemporary concerns involving the right to vote, housing, and education.

Sobul, DeAnne. *Hobson v Hansen...*A Moot Court Simulation. Los Angeles: Constitutional Rights Foundation, 1968.
Includes background and resource materials, directions for conducting the mock trial, and excerpts from the actual court decision in the case.

Starr, Isidore. *Human Rights in the United States.* New York: Oxford.
Provides a descriptive narrative and overview of human rights and how they are protected by the law and our legal system.

Trecker, J. L. "Women in U. S. History High School Textbooks." *Social Education.* March 1971.
Includes suggestions as to how teaching about the role of women might be incorporated into secondary level American history textbooks.

Films

Bailey Film Associates. *Equal Opportunity.* (Bill of Rights In Action Film Series.) 22 minutes

Presents a hypothetical case which centers on minority group employment and advancement practices in a factory with the decision left open for the students.

Encyclopedia Britannica. *The California Fair Housing Cases.* (Our Living Bill or Rights Film Series.) 20 min.

Recreates the 1964 turmoil in California regarding open housing.

Encyclopedia Britannica. *The Lost Generations of Prince Edward County.* (Our Living Bill of Rights Film Series). 30 min.

Examines public school segregation and some attempt at integration through an actual court case.

General References

Cohen, William, et. al. *The Bill of Rights, A Source Book.* New York; Benziger, 1967.

Provides historical background information and descriptive narrative summaries of legal cases related to basic values included in the Bill of Rights such as freedom of expression, freedom of religion, and equal protection of the laws.

Gardner, W. E., et al. *Selected Case Studies in American History.* Boston: Allyn & Bacon, 1973.

Centers on historical cases and controversies involving the Bill of Rights among other areas of interest and concern.

Gerlach, R. A., and Lamprecht, L. W. *Teaching About the Law: A Guide to Instruction.*, Cincinnati, Ohio: W. H. Anderson, 1975.

Suggests several instructional models...i.e. the case study approach, simulation-role play, value clarification, etc...for teaching about the law in junior and senior high school social studies classrooms as well as providing practical examples and working bibliographies for the teacher in this area of education.

Hunt, Maurice, and Metcalf, Lawrence. *Teaching High School Instruction.* New York: Harper and Row, 1968.

Suggests reflective thinking and related instruction as a means for dealing with controversial issues in the classroom.

Muessig, R. H. *Controversial Issues in the Social Studies: A Contemporary Perspective.* Washington, D. C.: National Council for the Social Studies, 1975.

Especially Chapter 2: "Teacher Preparation and Models for teaching Controversial Social Issues" by Jo Sweeney and James Parsons and Chapter 3: "Should Traditional Sex Modes and Values be Changed?" by John Cuber, et. al.

Oliver, Donald and Shaver, James. *Teaching Public Issues in the High School.* Boston: Houghton Mifflin, 1966.

Especially Chapter Six: "Selected Analytical Concepts," Chapter Seven: "The Use of a Jurisprudential Framework in the Teaching of Public Issues," and Chapter Eight: "Selecting and Organiziang Problem Units."

Pearson, Craig and Cutler, Charles. *Liberty Under Law.* Columbus, Ohio: American Education Publications, 1963. 64 pp.
Surveys, through representative cases, key concepts included in our Bill of Rights.

Raths, Louis, et. al. *Values and Teaching.* Columbus, Ohio: Charles Merrill, 1966.
Provides theoretical framework for as well as practical examples of how to use values clarification as an approach to instruction.

Starr, Isidore (ed.) "Special Issue: Teaching About the U. S. Constitution." *Social Education,* May 1973.
Provides a number of suggestions for teaching about the principles embodied in the U. S. Constitution.

Starr, Isidore. *The Supreme Court and Contemporary Issues.* Chicago: Encyclopedia Britannica, 1969.
Centers upon an examination of a series of legal concepts and problems that include civil rights, criminal law, free expression, the separation of church and state, and academic freedom among others through the consideration of selected Supreme Court cases and desisions.

The State Education Department. *Law Everyone Should Know.* (Revised) Albany, New York: 1974.
Contains sections of "family relations" (3) and "criminal law" (6 and 7).

TOPIC I: FREEDOM OF SPEECH, ASSEMBLY, AND RELIGION

Instructional Overview

Proposed Content Outline for Topic

I. Overview--Concept of "Freedom"
- . Definition
- . Application...role in American society
  - - Advantages/disadvantages
  - - Protection of/obstacles to

II. 1st Amendment--the Establishment Clause
- . Historical basis/examples
- . The law...its meaning
- . Application/Interpretation of the law
  - - In the field of public education
    - --bible reading
    - --released time
    - --government assistance
  - - Outside the field of public education
- . Alternative courses

III. 1st Amendment--the Free Exercise of Religion Clause
- . Historical basis/illustrations
- . The law
  - - Its meaning
  - - Its relationship to free speech
- . Limitations...Court Guidelines...applications of the law

IV. 1st Amendment--Freedom of Speech
- . Role in a democratic society
- . The law...its meaning
  - - Advantages/disadvantages
  - - Kinds of free speech
- . Application...its limitations
  - - Sedition
  - - Public safety/order
  - - Public morals
  - - Other constraints
- . Use

V. 1st Amendment--Freedom of Assembly
- . Historical basis
- . Function(s)/Purpose(s)/Need(s)
- . The law...its meaning
- . Application/interpretation of the law
  - - Conditions under which permissable
  - - Limitations on..
    - --Streets/parks
    - --Government facilities
    - --Private property

VI. Beyond "Freedom" as defined by law
- . Remedies for securing "Freedom"
- . Civil disobedience
- . Alternatives

Sample Key Concepts

- freedom
- establishment of religion
- religious instruction
- free exercise of religion
- freedom of speech
- peaceful assemble
- constitutional question/issue
- court decision/reasoning
- court jurisdiction
- license
- separation of church and state
- public morality, values
- sedition
- public order, safety
- social protest

Suggested Themes/Understandings

- American society and the behavior of its people are governed by a set of established rules.
- Freedom is an essential ingredient in and component of a democratic society and government.
- Concern for and protection of individual freedom grew out of our colonial experience and heritage.
- Freedom in American society is guaranteed by law and protected and defined by the courts.
- Freedom in our society is not absolute but subjective to certain constraints.
- Freedom is most likely to be controlled or regulated by the government when it infringes upon or conflicts with other constitutional rights, legal guarantees, legitimate concerns of the state, and/or societal values and needs.
- The exercise of freedom in our society takes on many different forms...and a variety of meanings.
- The law provides remedies to those in American society who feel their rights have been unfairly restricted or violated.

TOPIC II: FREEDOM OF THE PRESS

Instructional Overview

Proposed Content Outline for Topic

I. Overview--Concept of "Free Press"
   A. Meaning to Individuals
   B. Application...Role in American Society
      1. Advantages/Disadvantages
      2. Protection of/Obstacles to
      3. Historical Examples

II. 1st Amendment..."Freedom of the Press"
   A. Historical Basis
   B. Meaning of the Law
      1. "Press"...Forms of Communication
      2. "Freedom"...Responsibilities of the Press
   C. Issues Regarding/Interpretation of the Law
      1. Absolute Freedom?
      2. Prior Government Restraint?
      3. Free Press vs. Fair Trial
      4. Government Secrets?
      5. Confidentiality of One's Sources of Information

III. Summary--Meaning of "Free Press"
   A. To Individuals
   B. To American Society

Sample Key Concepts

- freedom
- license
- responsibility
- free press
- censorship
- prior restraint
- fair trail
- public trial
- government security
- confidentiality
- obscenity
- libel

Suggested Themes/Understandings

- Freedom of the press is an essential ingredient in and component of a democratic society and government.
- Concern for and protection of a free press grew out of our colonial experience and heritage.
- Freedom of the press is guaranteed by law and protected and defined by the courts.
- "Freedom of press" in our modern society includes many different forms of communications.
- Freedom of the press is not absolute but subject to certain constraints.
- Censorship of the press...through the prevention of the publication or broadcast of material...is only permitted in exceptional circumstances.
- The press is most likely to be subject to sanction and court or government action when it infringes upon or conflicts with other Constitutional rights, legal guarantees, legitimate concerns of the state, and/or societal values and needs.
- The law provides remedies to those in the press or public who feel their rights have been unfairly restricted or violated.

TOPIC III: FREEDOM FROM SEARCH AND SEIZURE

Instructional Overview

Proposed Content Outline for Topic

I. Overview--Personal Privacy
   A. Its Meaning
   B. Advantages/Disadvantages of
   C. Role in American Society

II. 4th Amendment
   A. Its Scope
   B. Its Meaning
      1. Unreasonable Search
      2. Warrant
      3. Probable Cause

III. Application/Interpretation of the Law
   A. Reasonable Searches
      1. Warrant
      2. Consent
      3. Hot Pursuit of Criminal
      4. Plain View
      5. Loss of Evidence
      6. Stop-and-Frisk
   B. Unreasonable Searches
      1. Exclusionary Rule
      2. Other Remedies
   C. The Special Case of Electronic Surveillance

IV. Other Potential Threats to/Intrusions Into One's Privacy
   A. Reasons for
   B. Value/Disadvantages
   C. Possible Remedies

Sample Key Concepts

- Privacy
- Search
- Unreasonable Searches
- Reasonable Searches
- Warrant
- Probable Cause
- Stop-and-Frisk
- Limited Search
- Legal Remedy
- Exculsionary Rule
- "Hot pursuit" standard
- "Plainview" doctrine
- Electronic surveillance
- Consent

Suggested Central Themes/Understandings

- American society and the behavior of its people are governed by a set of established rules or laws.
- "Personal privacy" tends to be prized or cherished by the members of American society.
- Concern for and protection against unreasonable searches and seizures grew out of our colonial experience and heritage.
- Freedom for unreasonable searches and seizures is guaranteed by law and protected and defind by the courts.
- The intrusion of one's privacy...reasonable or unreasonable...is likely to take many forms.
- An invasion of one's personal privacy by government is most likely to be reasonable and justifiable when it infringes upon or conflicts with other Constitutional rights, legal guarantees, legitimate concerns of the government, and/or other societal values and needs.
- The law provides a number or remedies to those in American society who feel that their right to privacy has been unfairly infringed upon.

TOPIC IV: EQUAL PROTECTION UNDER THE LAW

Instructional Overview

Proposed Content Outline for Topic

I. Overview - Concepts of Equality/Discrimination
   A. Definition...Areas of Concern
   B. Effects...Feelings
II. 14th Amendment - Equal Protection Clause
   A. Meaning
      1. Jurisdiction
      2. Application
III. Role in American Society...Views of the Court
   A. "Equal Opportunity in Education" -- Race
   B. "Right to Vote" -- Amount of Wealth
   C. "Equal Rights" -- Sex
   D. "Youth and Law" -- age
IV. Recent Developments...Equality and the Law
   A. Problems
   B. Recent Changes/Concerns
   C. Current Needs/Proposals

Sample Key Concepts

- Law
- Equality
- Equal treatment
- Discrimination...Sex...Age...Race...etc.
- Segregation
- Legal Jurisdiction
- "Separate but equal" doctrine
- Constitutionality...judicial reveiw